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To: Legislation and Regulation Committee Members **Date:** September 28, 2017

From: Mobile Clinic Workgroup **Telephone:** (916) 575-7170

Subject: Agenda Item 3 – Update, Discussion, And Possible Action Regarding Mobile Clinic Workgroup Recommendations Related to Mobile Optometric Services; Potential Recommendations to Full Board

During the August 2017 Board meeting, the Board heard presentations from DCA agencies regulating non-optometric services and entities currently providing mobile optometric services in California. After the presentations and discussions, the Board created a workgroup of two Board members to meet and frame out the next steps with the mobile optometric practice issue.

The presentations and discussions can be viewed [here](#).

During the meeting, it became apparent that the Board was faced with two separate, yet similar issues:

- 1) Access for homebound patients who are unable to obtain care from a traditional brick and mortar location
- 2) Access to mobile services for convenience (e.g., mobile services brought directly to schools, health events, businesses, etc.)

While both important, the workgroup recommends the Board focuses on access to homebound patients first. The workgroup believes these patients are most in need, because they would otherwise not receive necessary optometric care. To address this issue, the workgroup recommends amending the existing statute for residential and nursing home facilities (Business and Professions Code (BPC) § [3070.1](#)) to include “homebound” patients.

BPC § 3070.1 includes consumer protection mechanisms for continuity of care and proper record keeping. It also includes an exemption to BPC § [3070](#), so optometrists would not need to obtain a Statement of Licensure for each homebound patient.

With legal counsel assistance, the workgroup is proposing the attached amendments for consideration (Attachment 1). If approved, please recommend moving forward for Board consideration.

To address the second issue, the workgroup recommends using language from existing regulatory agencies, such as Board of Barbering and Cosmetology and the Dental Board of California, as a starting point. The workgroup will work with legal counsel and staff to draft framework language and disseminate to all stakeholders. Utilizing videoconferencing (e.g., WebEx) and/or teleconferencing, the workgroup will hold various stakeholder meetings seeking input over the next year.

The workgroup will continue to provide updates and seek input from the Leg/Reg Committee during committee meetings, with the goal to present a final product for consideration at the October 5, 2018 committee meeting. If approved, legislation recommendations from the Leg/Reg Committee would be presented to the Board during its November 2018 meeting.

Mobile Clinic Workgroup Proposed Amendments - 9.28.17

3070.1.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Health facility" means a health facility as defined in Section 1250 of the Health and Safety Code, exclusive of a hospital defined in subdivision (a) or (b) of that section.

(2) "Residential care facility" means a residential facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, licensed by the State Department of Social Services, including, but not limited to, the following:

(A) Adult residential facilities.

(B) Adult residential facilities for persons with special health care needs.

(C) Residential care facilities for the chronically ill.

(D) Residential care facilities for the elderly.

(E) Continuing care retirement communities.

(F) Social rehabilitation facilities.

(3) "Home-bound patient" means a patient who is unable to obtain optometric services outside of their home due to a disabling physical or mental condition.

(b) An optometrist may engage in the practice of optometry at any health facility, ~~or~~ residential care facility, ~~or residence of a home-bound patients with a physician's order for an optometric consult~~, provided that all of the following requirements are satisfied:

(1) The optometrist maintains a primary business office, separate from the health facility or residential care facility, that meets all of the following requirements:

(A) Is open to the public during normal business hours by telephone and for purposes of billing services or access to patient records.

(B) Is licensed to the optometrist or the employer of the optometrist as a local business with the city or county in which it is located.

(C) Is registered by the optometrist with the Board of Optometry.

(D) Is owned or leased by the optometrist or by the employer of the optometrist.

(E) Is not located in or connected with a residential dwelling.

(2) The optometrist maintains or discloses patient records in the following manner:

(A) Records are maintained and made available to the patient in such a way that the type and extent of services provided to the patient are conspicuously disclosed. The disclosure of records shall be made at or near the time services are rendered and shall be maintained at the primary business office specified in paragraph (1).

(B) The optometrist complies with all federal and state laws and regulations regarding the maintenance and protection of medical records, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(C) Pursuant to Section 3007, the optometrist keeps all necessary records for a minimum of seven years from the date of service in order to disclose fully the extent of services furnished

to a patient. Any information included on a printed copy of an original document to a patient shall be certified by the optometrist as being true, accurate, and complete.

(D) If a prescription is issued to a patient, records shall be maintained for each prescription as part of the patient's chart, including all of the following information about the optometrist:

(i) Name.

(ii) Optometrist license number.

(iii) The place of practice and the primary business office.

(iv) Description of the goods and services for which the patient is charged and the amount charged.

(E) A copy of any referral or order requesting optometric services for a patient from the health facility's or residential care facility's administrator, director of social services, the attending physician and surgeon, the patient, or a family member shall be kept in the patient's medical record.

(3) The optometrist possesses and appropriately uses the instruments and equipment required for all optometric services and procedures performed within the health facility or residential care facility.

(c) An optometrist who satisfies all of the requirements in this section for the practice of optometry at a health facility, ~~or~~ residential care facility, **or residence of a home-bound patients with a physician's order for an optometric consult**, shall not be required to comply with Section 3070 with regard to providing notification to the board of each facility or residential care facility at which he or she practices.

(Added by Stats. 2010, Ch. 604, Sec. 5. Effective January 1, 2011.)